

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

RICHARD WILCOXON,)
)
Plaintiff,)
) Civil Action
v.) No. 05-524-SLR
)
RED CLAY CONSOLIDATED SCHOOL)
DISTRICT BOARD OF EDUCATION,)
and JANAY FREEBERRY,)
)
Defendants.)

Deposition of RICHARD WILCOXON taken pursuant
to notice at the law offices of Young, Conaway, Stargatt
& Taylor, 1000 West Street, Wilmington, Delaware,
beginning at 9:05 a.m. on Thursday, May 4, 2006, before
Eleanor J. Schwandt, Registered Merit Reporter and Notary
Public.

APPEARANCES:

TIMOTHY J. WILSON, ESQ.
MARGOLIS EDELSTEIN
1509 Gilpin Avenue
Wilmington, Delaware 19801
for the Plaintiff

BARRY M. WILLOUGHBY, ESQ.
YOUNG, CONAWAY, STARGATT & TAYLOR
1000 West Street - 17th Floor
Wilmington, Delaware 19801
for the Defendants

ALSO PRESENT:

DEBORAH COLES, Paralegal
CHRISTINE SMITH
DIANE DUNMON
JANAY FREEBERRY

WILCOX & FETZER
1330 King Street - Wilmington, Delaware 19801
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1 A. Okay.

2 Q. What did you do to prepare for the deposition?

3 A. I met with Mr. Wilson yesterday afternoon. I
4 reviewed the complaint. I looked over one of the
5 observations. And I listened to one of the audio tapes.

6 Q. And what kind of audio tape is this?

7 A. This is an audio tape of some of the meetings I
8 had.

9 Q. You taped meetings?

10 A. Yes, I did.

11 MR. WILLOUGHBY: And has that been produced?

12 MR. WILSON: In our responses we said that
13 the audio tapes are available for your copying if you
14 want them.

15 MR. WILLOUGHBY: Well, we request they be
16 produced immediately.

17 BY MR. WILLOUGHBY:

18 Q. When did you start doing audio tapes of meetings?

19 A. On, I guess first day was December 17th of 2003,
20 I guess it was. I'm trying to think which year it was.
21 After documentation was found on the 15th, the 16th I met
22 with Jan Basara, and I was uncomfortable with how the
23 meeting went, so I felt very exposed, and I felt like
24 this whole thing was going to be turned around on to me.



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1 Q. You thought your job was in jeopardy?

2 A. I was concerned that that could be the direction
3 it went, yes.

4 Q. All right. So you started making audio tapes at
5 this point?

6 A. Yes.

7 Q. Did you inform any of the people that you were
8 taping, that you were making audio tapes?

9 A. No, I did not.

10 Q. So you did that secretly?

11 A. Yes.

12 Q. At that point were you represented by a lawyer?

13 A. No, I was not.

14 Q. When did you first contact a lawyer?

15 A. I first talked to Jeff Taschner of DSEA that
16 March, I guess it was.

17 Q. March of 2004?

18 A. Was it two -- my last year teaching I guess, 2000
19 -- yes, 2004.

20 Q. Was he representing you individually or
21 representing the organization?

22 A. I don't understand.

23 Q. Mr. Taschner, was he representing you
24 individually or was he representing DSEA?



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1 Q. Yes.

2 A. That morning -- on the first conversation was
3 that morning. I knocked on the door and asked Jan Basara
4 if I could have the log back.

5 Q. That was the log you were keeping on Janay?

6 A. Yes. She responded, "Yes, I'll get it to you
7 later."

8 Then next meeting was also that morning.
9 Miss Basara called me into her office and wanted to talk
10 to me about all the ways Miss Freebery could find out
11 that Miss Filer was the one who advised me to keep the
12 log. The day before Miss Filer and I had approached Mr.
13 Rumford, because Miss Basara had left, and Miss Filer
14 made very clear that if Miss Freebery found out that she
15 was the one who gave me the advice that she would file a
16 complaint with Mr. Orga because her name should not come
17 out.

18 Q. Wait a second. Ms. Filer didn't want her name to
19 come out?

20 A. Yes, to Miss Freebery.

21 Q. And Ms. Filer gave you the advice to start
22 keeping a log on Ms. Freebery?

23 A. Yes.

24 Q. And she did that at a bar after work?



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1 A. Yes.

2 Q. Go ahead. Tell me what you remember about the
3 conversation.

4 A. The next one, Miss Basara was telling me the ways
5 Miss Filer could find out about the -- I'm sorry -- Miss
6 Freebery could find out that Miss Filer's name was the
7 person who gave it to me, and she was stating that people
8 could have seen her go into the cafeteria and pull Mr.
9 Rumford out, or saw myself and Miss Filer talking to Mr.
10 Rumford, talking to Mr. Rumford outside the cafeteria,
11 she could find out that way.

12 In that conversation I asked Miss Basara I
13 said, "I may be overreacting, I may be reading too much
14 into this, but both you and Mr. Rumford have come to me
15 and said we need to have a meeting later that day to see
16 how Miss Freebery and I could work together for the rest
17 of this year. You both have stated the rest of this
18 year. Maybe I'm reading too much into it, but why do you
19 say it that way?"

20 And her response was, "Well, you are not
21 tenured, are you?"

22 Q. So at that point you had the belief that she was
23 going to not renew your employment?

24 A. Yes.



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1 A. No.

2 Q. Do you remember asking her if she had sex with
3 Bruce Hannah yet?

4 A. No.

5 Q. You didn't say that?

6 A. No.

7 Q. Now, you were socializing with a group of
8 teachers called the Insubordinates; is that correct?

9 A. No.

10 Q. You weren't?

11 A. No. There is not a group of teachers that were
12 called that. We didn't call ourselves insubordinates.
13 There was a group of teachers I socialized with.

14 Q. You didn't call yourselves the Insubordinates?

15 A. No.

16 Q. Okay.

17 A. Only term I heard referred to is the Exiles.

18 Q. The Exiles?

19 A. That's the only term I ever heard it referred to.
20 And I didn't use that term. That was used by another
21 person who is a part of the group. I never referred to
22 it as the Insubordinates.

23 (Wilcoxon Deposition Exhibit 1 was marked
24 for identification.)



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1 Q. I've handed you what has been marked as
2 Exhibit, 1. Do you recognize that document?

3 A. I don't recognize it. It doesn't mean I didn't
4 get it;

5 Q. Well, it is an e-mail, correct?

6 A. Yes.

7 Q. You are one of the recipients, correct?

8 A. Yes.

9 Q. And can you read, it says, "Subject: Meeting -
10 Farewell," can you read the document after that?

11 A. Do you want me to read it out loud?

12 Q. Yes.

13 A. "The 'meeting' of the Insubordinates is being
14 advertised as starting around 6 p.m. on Tuesday due to
15 the schedule of one of the schedulers."

16 Q. Hold on one second. At the top it says addressed
17 to "Fellow Insubordinates," correct?

18 A. Yes.

19 Q. You are telling us you never heard that term
20 before?

21 A. I never referred to it and the people who I'm
22 close to in the group never referred to it. I mean,
23 there is one person in the group refers to it as the
24 Exiles. I never had a name for the group. It is just a



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1 group of friends.

2 , Q. And the people on the "to" line, are they the
3 group of friends you are referring to?

4 A. Yes.

5 Q. Includes Linda Filer?

6 A. Yes.

7 Q. Okay. Why don't you keep reading the e-mail?

8 A. "However, Fellow Insubordinates, in keeping with
9 our attitudes and behaviors, the meeting can begin
10 without him. We can perform such duties as begin
11 drinking, terrorizing the neighborhood, begin drinking,
12 writing names in snow" --

13 Q. Slow down.

14 A. "Write names in the snow, begin drinking" --

15 Q. Read slower, please.

16 A. "Begin drinking, eating munchies, and continue
17 drinking. I should have the refrigerator cleared out of
18 unnecessary items (such as my food) so that you can put
19 your beer supply on ice by 4:30 or so. We will just
20 beginning the honoring without him."

21 Q. Do you know who the person who is being referred
22 to for the "Special Meeting - Farewell" is?

23 A. No, I don't.

24 Q. Did you attend this farewell meeting?



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1 A. I might have. I couldn't tell you, to be honest.

2 Q. , Do you know who the message is from?

3 A. Yes, Marilyn, I can't think of her last name.

4 Q. And this was the group of people that you
5 socialized with at work at Skyline?

6 A. Some of them are, yes.

7 Q. Did you frequently go out for drinks after work?

8 A. About every other Friday.

9 Q. And was it one of those Friday meetings that
10 Linda Filer said to you that you should keep a book on
11 Janay Freebery?

12 A. I don't know if it was then or not. It was at a
13 time I was talking to Linda Filer about --

14 Q. You told me earlier it was at a bar, earlier in
15 this deposition. So you are correcting that now? You
16 are saying it wasn't at a bar?

17 A. I don't know where it was.

18 Q. So you don't remember where it was?

19 A. No.

20 Q. Could it have been at a bar?

21 A. It could have been. It very well could have
22 been.

23 Q. Who else was present when that conversation took
24 place?



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1 Q. Tell me about the conversations in the second
2 school year at Skyline when Ms. Filer suggested that you
3 keep the log on Ms. Freebery.

4 A. She came to me and said that she was just getting
5 out of a meeting. I don't know what meeting it was for.
6 I don't remember at this time. And Miss Freebery made a
7 comment to the whole group that I was difficult to work
8 with, and that Mr. Rumford was part of that group as
9 well.

10 And so at that point I thought, I said,
11 "Well, if I'm difficult to work with, I'm covering her
12 classes when she is late, I'm covering when she is out,
13 how can I be considered difficult to work with." She
14 said, "That's why you should keep the log." And so,
15 again, that's when I did start keeping the log.

16 Q. Did you go to Ms. Freebery and tell her you heard
17 she made these comments?

18 A. No, I did not.

19 Q. So you just decided to secretly keep the log?

20 MR. WILSON: Object to the form.

21 A. Yes.

22 Q. And that log was for your own use, correct? It
23 wasn't something you were taking to the district? It was
24 for your own protection, as you said?



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1 A. Well, I would take it to the district if things
2 happened. As Miss Freebery complained to Mr. Rumford, if
3 it went to my supervisors, her and Miss Basara, and my
4 job became in jeopardy because she said I was difficult
5 to work with or something happened to the kids and I was
6 poised in that situation, then it would be something I
7 would share with the district.

8 Q. Only in those circumstances would you bring it to
9 somebody's attention in the district?

10 A. Yes.

11 Q. Did you tell somebody, any of the administrators
12 or principals that you were keeping it so you would have
13 leverage?

14 A. No.

15 Q. You never made that kind of remark either?

16 A. No.

17 Q. When was it you started keeping the log?

18 A. In November.

19 Q. Of what year?

20 A. I believe it was 2003. Yes, 2003.

21 Q. So how long was the conversation, how long before
22 that was the conversation with Ms. Filer at the bar where
23 she suggested you start taking, keeping this log?

24 A. It was the previous spring, so I guess six



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1 the file with the lesson plans?

2 A. Yes.

3 Q. Now, those lesson plans when you were at Skyline,
4 they were basically copies of plans that Mr. Rumford had
5 done, correct?

6 A. No, that's not correct.

7 Q. Did you write your own plans?

8 A. Yes.

9 Q. You are saying the plans that were on file were
10 plans you wrote yourself?

11 A. Yes.

12 Q. So you didn't get a notebook --

13 A. I -- oh, yes, for emergency plans, yes, they were
14 my writing.

15 Q. Did you get a notebook from Mr. Rumford with his
16 lesson plan book when you went to work at Skyline?

17 A. Not for emergency plans.

18 Q. Okay. Well, tell me about that notebook first.

19 A. When I arrived at Skyline they were about ready
20 to start health lessons, because I didn't start until
21 October. Mr. Rumford gave me his lesson plan books and
22 said, "These are the lessons we use for health. All the
23 work sheets are locked in the cabinet inside the health
24 room. This is the key."



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1 Q. And did you use that as, basically, your lesson
2 plans for the two years you were at Skyline?

3 A. For health we team taught, so all lesson plans
4 were used by both Miss Freebery and myself, or in that
5 case it was the long-term sub, who I do not remember her
6 name.

7 Q. After you stopped teaching with Ms. Freebery did
8 you continue to use those plans?

9 A. Yes, I did.

10 Q. Mr. Rumford's plans?

11 A. Yes.

12 Q. Now, you said you had other emergency plans that
13 you wrote?

14 A. Emergency plans were separate from lesson plans.

15 Q. And tell me about what the difference is.

16 A. Emergency plans are locked on file and they are
17 only to be used when you are out. The lesson plans are
18 lesson plans we use every day of teaching. Every day we
19 should have a lesson plan.

20 Q. Well, were the emergency plans to tell the
21 substitute what to teach?

22 A. Yes.

23 Q. And are you saying you wrote those yourself?

24 A. Yes.



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1 complained to the office that she should not be charged a
2 day since she did not call out."

3 Q. Did you ever talk with Ms. Freebery about that
4 incident?

5 A. No.

6 Q. What is the next entry?

7 A. "Mid-September - Janay was late and missed her
8 1st class. Her girls stayed in the locker room
9 unsupervised. Janay arrived the start of her 2nd class."

10 Q. And you don't know what date that was?

11 A. No, I don't. I was outside with my kids, and a
12 girl came outside and said, "What are you doing?" And I
13 said, "We are finishing up soccer. Why aren't you with
14 your class?" And she said, "Miss Freebery isn't there."
15 And I said, "You need to go up to the office and let the
16 office know."

17 Q. You don't remember the date?

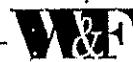
18 A. No, I don't.

19 Q. Did you ever have a conversation with Miss
20 Freebery about that?

21 A. No, I did not. I don't think.

22 Q. Prior to the December 17 conversation with Ms.
23 Basara, did you ever tell her about these incidents?

24 A. No, I did not.



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1 Jahlil probably asking an inappropriate question, and I
2 felt Miss Freebery was overly harsh in her response.

3 Q. Did you tell Ms. Freebery that?

4 A. I don't think so.

5 Q. Now, this was your second year at Skyline,
6 correct?

7 A. Yes.

8 Q. And how long had you been teaching at that point?

9 A. Overall?

10 Q. Yes.

11 A. I had spent three years at Lake Forest School
12 District and up until the October 4, I came to Skyline.
13 I was at Colonial? Was it Colonial? George Reed Middle
14 School.

15 Q. So how many years is that?

16 A. Up to this point?

17 Q. Yes.

18 A. That was my fifth year.

19 Q. How long had Ms. Freebery been teaching?

20 A. I don't know. I believe nine.

21 Q. And she was tenured?

22 A. Yes.

23 Q. And she had been teaching that class for a number
24 of years with Mr. Rumford?



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1 A. Yes, that's correct.

2 Q. All right. Let's go back. So November 14 says
3 what?

4 A. "Left a health class 20 minutes early saying she
5 'needed to work on her master's thesis,' leaving me with
6 all the kids."

7 Q. What did you say when that happened? Did you say
8 anything to her about that? Did you have a conversation?

9 A. I don't recall.

10 Q. So you are saying she just told you she was
11 leaving and you didn't agree to continue with the class?

12 A. Well, obviously, I was going to continue with the
13 class.

14 Q. Did you agree that she could leave early and you
15 would cover the class?

16 A. I may have said that -- I don't recall.

17 Q. You don't recall?

18 A. I may have said that, I don't recall.

19 Q. But you wrote it down here as something she did
20 inappropriately?

21 A. Yes.

22 Q. Did you tell her you thought it was
23 inappropriate?

24 A. I don't think so.



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1 Q. Okay. November 17, what does that say?

2 A. "Came into the In-service 15 minutes late."

3 Q. What is that next to it in parens?

4 A. It says "tally (15)."

5 Q. What does that mean?

6 A. I started keeping a tally of how late she was.

7 Q. So you started keeping a record of how many
8 minutes late she was?

9 A. Yes, that's correct.

10 Q. And did you tell Ms. Freebery that she was late
11 that day?

12 A. I don't know if I told her that day, no.

13 Q. Did you tell Ms. Basara about any of these
14 conversations prior to the December 17 meeting?

15 A. No, I did not.

16 Q. All right. What does the November 19 entry say?

17 A. "Left before our last class. Started to go to
18 bathroom. Did not return until 2:25. Said she was
19 talking to Becky Perse in the hall."

20 Q. Did you mention to Ms. Freebery you thought there
21 was something inappropriate about this?

22 A. I'm sure I did.

23 Q. At the time?

24 A. Yes.



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1 Q. What do you remember saying?

2 A. I could not tell you word for word. I'm sure I
3 said something about, where were you, it shouldn't take
4 that long.

5 Q. Do you remember that or are you saying you are
6 sure?

7 A. I'm sure I talked to her about it. I do not
8 remember exactly what I would have said.

9 Q. Well, do you remember, do you have a conscious
10 recollection of saying something?

11 A. Yes.

12 Q. And what is --

13 A. I believe I did.

14 Q. Well, that's a different thing, whether you have
15 a conscious recollection or you believe you would have.
16 I'm asking if you have a conscious recollection of saying
17 something.

18 A. No, I don't.

19 Q. So you think you would have, but you don't really
20 remember?

21 A. Correct.

22 Q. Let's go to the next entry, November 24.

23 A. "Late - arrived at 8:05. Missing student leaders
24 and volleyball sign-ups."



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1 next page, it says, "Left building to go to the bank
2 during planning," on the top of the next page. I'm
3 thinking when I wrote this down, the Bruce situation
4 happened earlier, and left building was later that same
5 day.

6 Q. So you crossed out that entry you started to make
7 so you could keep the entries in order?

8 A. Yes.

9 Q. Let's go to the next page, which is Bates
10 numbered C00760. And start at the top of the page, tell
11 me the date and what the entries are there.

12 A. Says "November 24th continued. Left building to
13 go to the bank during planning (did not sign out) did not
14 return until 10:45 (22 minutes after class started.)"

15 Q. Is your running total in here somewhere?

16 A. I don't see it on that.

17 Q. Did you say anything to Ms. Freebery about that?

18 A. I do not recall.

19 Q. Is there any reason why she couldn't leave the
20 building during her planning period?

21 A. No.

22 Q. Didn't you leave the building frequently during
23 your planning period?

24 A. Yes.



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1 done during class time, could be done at planning periods
2 or, other things.

3 Q. Did you tell her that?

4 A. No, I did not.

5 Q. Next entry?

6 A. "Arrived at 6:22 for choice open house (teachers
7 were supposed to arrive at 6:00 p.m.) leaving me to set
8 up everything.

9 Q. What did you have to set up?

10 A. We had students come in and play volleyball
11 games. I set the volleyball nets. I had to get the
12 jerseys for the students. I had to get the students
13 organized.

14 Q. Did you tell Ms. Freebery that you believe that
15 what she had done was inappropriate?

16 A. I do not recall.

17 Q. What is the next entry?

18 A. "Spent 30 plus minutes of choice open house
19 talking to a former student - ignoring parents and others
20 in the gym.

21 Q. Do you know who the former student was?

22 A. I have no clue.

23 Q. And do you think it was inappropriate for her to
24 talk to a former student?



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1 Q. What is the next entry?

2 A. "11/26 - arrived at 7:50 - missed student leaders
3 and 1st period had started." We were on a half-day
4 schedule.

5 Q. Is that now your running total is an hour and 25?

6 A. Yes.

7 Q. Now, were you angry when you were keeping this?
8 Were you upset?

9 A. I may have been frustrated.

10 Q. Did you tell Janay or anybody else that you were
11 angry and hurt about the comments she had made?

12 A. Not about the comments, no. I talked to her. I
13 was thinking more frustrated because I was required to do
14 extra work because she was --

15 Q. Did you ever tell her that?

16 A. Yes, I did.

17 Q. Did you ever tell her that you were angry and
18 hurt about her comments?

19 A. No, I did not.

20 Q. Did you ever send her an e-mail about the
21 situation?

22 A. What Frank Rumford told me, called me at home
23 when I was out sick on December 15th of 2003, he said
24 that Janay had the log, and I sent her an e-mail,

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1 top of the desk. It wasn't in a drawer or a file cabinet
2 or anything else.

3 Q. Let's continue looking at the log. I think you
4 were up to November 26.

5 A. "November 26 - arrived at 7:50 - missed student
6 leaders and 1st period had started (half-day schedule.)"

7 Q. That's your tally at that point, is an hour and
8 25 minutes?

9 A. Yes.

10 Q. We don't have the original. You were keeping
11 this tally as you were going along?

12 A. Yes.

13 Q. Did you tell Ms. Freebery about this concern?

14 A. Did I tell her I was concerned about her being
15 late?

16 Q. On November 26 you said she arrived at 7:50,
17 missed students, etcetera. Did you raise that issue with
18 her at that time?

19 A. I do not recall.

20 Q. All right. What is the next entry?

21 A. "Left during 1st planning - returned at 9:23 - 5
22 minutes late for class."

23 Q. Did you tell her about that concern?

24 A. I do not recall. I do not recall.



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1 "He stayed through class."

2 Q. , The time of the planning period?

3 A. The time when I returned after planning period.

4 Q. So in this case you wrote down the time that you
5 returned?

6 A. Correct.

7 Q. He stayed through class?

8 A. Mm-hmm.

9 Q. Did you raise any of these issues with Ms.
10 Freebery at the time?

11 A. No, I did not.

12 Q. What is the next entry? "Left"?

13 A. "Left 12:05 during class (without telling me) and
14 returned at 12:26."

15 Q. Was the guest speaker still teaching?

16 A. Yes. She was there the entire day.

17 Q. For this entire day neither one of you were
18 actually teaching the class, correct?

19 A. That's correct.

20 Q. All right. What is the next entry?

21 A. "After 2nd planning, Janay arrived at 1:23
22 claiming" -- I can't read what I wrote there.

23 Q. Class, is it, began?

24 A. "Class began," probably, "at 1:11."



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1 University of Delaware?

2 ' A. I have two degrees from University of Delaware.
3 One I graduated in January of '96, and the other one,
4 1998, I think.

5 Q. What was the degree in 1996?

6 A. Ag. business management.

7 Q. Did you go back to school for an education degree
8 after that?

9 A. Yes, health and phys-ed degree.

10 Q. Did you work in between?

11 A. No, I did not.

12 Q. So after you graduated you continued on for
13 another two years to get a bachelor's degree in
14 education?

15 A. That's correct.

16 Q. Did you student teach as part of that process,
17 the University of Delaware?

18 A. Yes.

19 Q. What were you taught about how you go about
20 making lesson plans and things like that when you were at
21 the university? What training did you receive when you
22 were an education major concerning how to make lesson
23 plans?

24 A. It was a part of a number of our classes.



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1 Q. What do you remember being trained to do?

2 A. Start with learning objectives, based on learning
3 objectives and what you want the student to walk away
4 with. Create the activities.

5 Q. Slow down.

6 A. I'm sorry.

7 Q. Start with the learning objectives.

8 A. Mm-hmm.

9 Q. Okay. Create the activities?

10 A. Create activities that fill those -- fulfill
11 those learning objectives.

12 Q. What else?

13 A. I don't know what you are asking me.

14 Q. What were you trained when you were an education
15 major to do on how you go about making a lesson plan?

16 A. Like I said, start with the learning objectives.
17 State standards came in after I graduated. They became
18 -- so I didn't learn about those there, but they became
19 the learning objectives. You create a lesson plan that
20 fulfills what you want the students to walk away with by
21 creating those activities.

22 Q. That's it?

23 A. You would have an opening for the students, to
24 get them prepared for the lesson, and a conclusion to



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Richard Wilcoxon

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1 wrap up.

2 Q. What else?

3 A. I'm unsure.

4 Q. Did you receive any training on how you
5 transition into a new school as a new teacher, what steps
6 you should take as a new teacher at a school?

7 A. No.

8 Q. Do you remember being criticized when you were at
9 the University of Delaware about your ability to prepare
10 lesson plans?

11 A. No. I don't recall that.

12 Q. Could it have happened?

13 A. Possible.

14 (Wilcoxon Deposition Exhibit 3 was marked
15 for identification.)

16 Q. This is Exhibit 3. Have you seen that before?

17 A. I'm sure I have.

18 Q. Go over to the third page, which at the bottom,
19 it has an entry basically from your law firm saying the
20 law firm name and then a Bates number 0566. Looking down
21 at the fifth paragraph, can you read into the record what
22 that says?

23 A. "Three areas of difficulties surfaced during
24 Richard's student teaching: 1, difficulty in writing a



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1 detailed lesson plan; 2, difficulty giving clear, concise
2 explanations and directions, 3, difficulty achieving
3 effective transitions from one activity to another. This
4 lack in detail in writing and speaking interfered with
5 the lesson pacing, children's time on task and maximum
6 learning time."

7 Q. So now do you recall being criticized for your
8 ability to do lesson plans?

9 A. I don't recall it, but, I mean, I just read it,
10 so it happened.

11 Q. Tell me about your employment history after you
12 graduated from University of Delaware with your education
13 degree.

14 A. I moved to Virginia. I worked as a substitute
15 teacher. I also worked for a county camp with kids. I
16 worked for an organization to help battered women and
17 educated youth on violence.

18 Q. What organization was that?

19 A. Avalon, I believe it was called.

20 Q. It was in Williamsburg, Virginia?

21 A. That's correct.

22 Q. Did you work at the YMCA?

23 A. While I was in college I did.

24 Q. That was while you were in college?



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1 A. That was while I was in college, yes.

2 Q. And did you work at St. Mark's High School?

3 A. I have substituted there after I did my student
4 teaching there.

5 Q. After you did what?

6 A. I did my student teaching at St. Mark's, and they
7 asked me to substitute for them.

8 Q. Who was your supervisor at St. Mark's?

9 A. Tony Glenn.

10 Q. What were your duties as a substitute teacher at
11 St. Mark's?

12 A. From day one I ran one class completely. I took
13 it over. And gradually throughout my time there I took
14 over the rest of the classes.

15 Q. What class was it that you took over?

16 A. Phys-ed.

17 Q. Was your education degree specialized in phys-ed
18 and health?

19 A. Yes.

20 Q. What were the classes that you took over at St.
21 Mark's?

22 A. Freshman phys -- freshman, sophomore and senior
23 phys-ed classes.

24 Q. Did you do lesson plans when you were there?



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Richard Wilcoxon

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1 A. Yes.

2 Q. Did you produce them in this case?

3 A. No:

4 Q. Do you still have them?

5 A. Probably not. I can look, but probably not.

6 Q. What did you do at the YMCA?

7 A. I was a youth sports coordinator.

8 Q. What did you do there?

9 A. I ran the youth sports for basketball, flag
10 football. I did soccer with the kids.

11 Q. Who was your supervisor?

12 A. David Dill.

13 Q. Did you teach or have any duties at the York
14 County Public Schools?

15 A. I did some substitute teaching.

16 Q. Do you know when that was, what years?

17 A. It would be the spring of, I want to say spring
18 of '99, but that may not be the right year.

19 Q. Did you apply for full-time teaching positions
20 after you graduated?

21 A. Yes.

22 Q. Where was the first full-time teaching position
23 you got?

24 A. My first full-time one I got was at Chipman



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Richard Wilcoxon

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1 School in Lake Forest School District.

2 Q. Do you remember what year that was?

3 A. 1998, the fall.

4 Q. Did you graduate in the fall of '98 or spring of
5 '98?

6 A. I graduated in winter.

7 Q. Of?

8 A. I want to say it was '98. Maybe -- January '98
9 commencement.

10 Q. So when did you start full-time teaching at Lake
11 Forest?

12 A. I'm sorry. I have to think back. I'm sorry.
13 I'm getting confused on the years.

14 Q. Let's mark this at the next exhibit, please.

15 (Wilcoxon Deposition Exhibit 4 was marked
16 for identification.)

17 A. I graduated --

18 Q. Wait.

19 A. Sorry.

20 Q. I have marked as Exhibit 4 what appears to be
21 your application for employment at the Red Clay School
22 District; is that correct?

23 A. Yes, that's correct.

24 Q. Is the writing on this document a copy of your

Richard Wilcoxon

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1 handwriting?

2 A. That's correct.

3 Q. And at that point you lived in Georgetown,
4 Delaware?

5 A. Yes.

6 Q. It says 24 Fairway. I'm not sure what the --

7 A. 24 Fairway East.

8 Q. How long had you lived at that address?

9 A. That's my parents' home.

10 Q. Were you married at this point?

11 A. Yes.

12 Q. Did you actually live at your parents' home while
13 you were married?

14 A. For a short time, while we were looking for a
15 house in Newark.

16 Q. Were you living there when you made this
17 application to Red Clay on July 3rd, 2001?

18 A. I would have to look. I don't have that -- I
19 don't remember off the top of my head.

20 Q. Where else did you live in Georgetown?

21 A. This is the only place I lived in Georgetown.

22 Q. What?

23 A. This is the only house I've ever lived in in
24 Georgetown.



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Richard Wilcoxon

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1 Q. Let's go through your application. Teaching
2 experience, you show first teaching at the Chipman Middle
3 School in Lake Forest School District, correct?
4

5 A. Yes.

6 Q. And you taught middle school health?

7 A. Yes.

8 Q. And that says you began in August of 1999,
correct?

9 A. That's right.

10 Q. And that says through the present, which would be
11 July 3rd, 2001, correct, the date of this application?

12 A. I'm trying to -- I'm trying to remember when I
13 went to the high school. I taught at Lake Forest High
14 School, so that's why I'm trying think.

15 Q. What was --

16 A. I also taught at Lake Forest High School. I'm
17 trying to think which school I was at at that time.

18 Q. Well, this is your application. At the time you
19 filled it out --

20 A. July 1st of -- yes, that's correct. I was at the
21 high school fall 2001-2002, I was at the high school.

22 Q. How many years were you at the middle school?

23 A. From '99 until 2001.

24 Q. And you were then at the high school for?

Richard Wilcoxon

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1 A. One year.

2 Q. For one year?

3 A. Yes.

4 Q. Were you a tenured teacher?

5 A. Yes, I received my tenure.

6 Q. When did you receive that?

7 A. August of I guess it would be 2002.

8 Q. And then you left Lake Forest to move to Newark?

9 A. We had already moved to Newark. I was driving
10 down to Lake Forest High School every day from Newark.

11 Q. And you were looking for positions in New Castle
12 County?

13 A. Yes.

14 Q. Where else did you look besides Red Clay?

15 A. Christina. I want to say it is Colonial, but I'm
16 not sure that's the school district name. New Castle
17 County Votech I have applied at.

18 Q. Where else?

19 A. I probably applied at Middletown at the time. I
20 don't know.

21 Q. And did you receive any offers of employment
22 besides the employment offer at Red Clay?

23 A. Yes.

24 Q. Where was that?

W & F

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A193

Richard Wilcoxon

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1 A. George Reed Middle School, and I believe that's
2 Colonial School District.

3 Q. What were you teaching there?

4 A. Health.

5 Q. And that would have been in September of 2002?

6 A. Yes.

7 Q. Then you left George Reed in October of 2002 to
8 go to Red Clay?

9 A. That's correct.

10 Q. Why did you leave the job you just started at
11 Colonial to go to Red Clay?

12 A. I wanted to get back to teaching phys-ed, and
13 Colonial indicated I would teach phys-ed, but when I got
14 there they changed their structure. I was strictly a
15 health teacher.

16 Q. Were you told that you had any teaching problems
17 at the time you were at George Reed in the Colonial
18 School District?

19 A. No.

20 Q. Who was your supervisor there? Who were the
21 principals at George Reed?

22 A. Principal was Angela Guy, I believe her name was.

23 Q. How do you spell her last name?

24 A. G-U-Y, I believe. I'm not a hundred percent

Richard Wilcoxon

106

1 Q. How did you come to know about a position at Red
2 Clay?

3 A. They called me.

4 Q. Do you remember who called you?

5 A. I do not.

6 Q. Do you remember interviewing?

7 A. Yes.

8 Q. Who did you interview with?

9 A. Dr. Nick Manolakos. Frank Rumford was in the
10 interview.

11 Q. Did you have an understanding as to why there was
12 a position available?

13 A. Yes, Mr. Rumford had left phys-ed and was moving
14 up to a student activities person.

15 Q. Did you meet Ms. Freebery at that point?

16 A. I do not remember.

17 Q. Do you know if she was teaching in that fall
18 semester of 2002 and 2003?

19 A. She was not.

20 Q. She was on maternity leave?

21 A. I guess so.

22 Q. Who did you teach with when you arrived at Red
23 Clay?

24 A. There was a long-term sub.



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Richard Wilcoxon

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1 Q. Do you know the name?

2 A. " All I can remember is name was Jill. I can't
3 remember the rest of it.

4 Q. Were you team teaching with her?

5 A. We did some team teaching, yes, for health.

6 Q. For the health classes?

7 A. Yes.

8 Q. How many health classes did you have when you
9 were at Red Clay the first year, in 2002/2003?

10 A. Number wise, how many health classes?

11 Q. Yes.

12 A. I guess it would be ten, five each semester.

13 Q. And how many phys-ed classes did you have?

14 A. Same number, phys-ed -- health was a part of the
15 phys-ed curriculum. It was the same students.

16 Q. So you had five classes to teach each semester?

17 A. I believe that's right. Five or six.

18 Q. Was it combined health and phys-ed class?

19 A. Yes.

20 Q. So when was it that you would be teaching on your
21 own instead of team teaching during that first semester
22 in the fall of 2002?

23 A. The majority of the phys-ed classes.

24 Q. You would be teaching?

W&F

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A196

Richard Wilcoxon

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1 A. I may have.

2 "Wilcoxon Deposition Exhibit 8 was marked
3 for identification.)

4 Q. Do you recognize Exhibit 8?

5 A. Yes.

6 Q. And what is it?

7 A. It was the plan book Frank Rumford handed to me
8 for health.

9 Q. What you did was put a piece of tape across it
10 and put "Wilcoxon's Plan Book"?

11 A. I did that when Miss Basara asked for it, I
12 believe is when I did that.

13 Q. Before that it was --

14 A. A plan book.

15 Q. A plan book. When she asked you for a copy of
16 your plan book, you took a piece of tape and put across
17 the first page and wrote "Wilcoxon's Plan Book"?

18 A. She asked to see the health plan. I said, "Do
19 you want the phys-ed as well?" Because they were on my
20 computer, because I wrote the lesson plans and saved them
21 on my computer.

22 Q. With respect to this plan book, is it correct
23 that you, when she asked you for the plan book, you just
24 took a piece of tape and wrote your name on it?



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1 phys-ed.

2 Q. How many male teachers how many female teachers?

3 A. There was two male. I believe there was only one
4 female.

5 Q. And it says your salary will be predicated on a
6 Bachelors degree with zero years of experience. Do you
7 know why that is?

8 A. I have no idea.

9 Q. Did you have experience when you began at
10 Colonial?

11 A. Yes. Lake Forest, Chipman, I had forwarded that
12 I worked for them. Up to Colonial yet, I don't know.

13 Q. Did you ever have any discussion with anybody
14 about the fact that you were listed as having zero years
15 of experience?

16 A. I may have. I do not recall.

17 Q. Do you recall what your salary was at Colonial?

18 A. I do not.

19 Q. Do you recall what your starting salary was at
20 Red Clay?

21 A. I do not.

22 Q. Do you know if one was higher than the other?

23 A. I do not.

24 Q. Do you have a ballpark for what your figure for



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1 what your salary was when you were at Red Clay?

2 A. I'm guessing. I don't know. If you are
3 asking for a ballpark.

4 Q. 38 is your recollection.

5 All right. Before we took the break I asked
6 you to go through Exhibit 8 and identify where in there
7 your handwriting appears. So have you done that?

8 A. Yes.

9 Q. And have you found some locations?

10 A. Yes.

11 Q. Down at the lower left-hand corner of this
12 document you will see what we call a Bates number. It
13 begins with C and then has some numbers after that.

14 A. Okay.

15 Q. Can you tell me what Bates number you have found
16 your handwriting on this document?

17 A. 00338.

18 Q. 00338. All right. Where on this page does your
19 handwriting appear?

20 A. At the top, the state standards, the AOD 1.2, 2--

21 Q. Slow down for me a second.

22 A. I'm sorry.

23 Q. The top of the document?

24 A. Top of the document.



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Richard Wilcoxon

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1 Q. Okay.

2 A. Right next to "Health" and "Alcohol" in
3 parenthesis there is an AOD 1.2, coma, 2, coma, 3, coma
4, coma 5. Below that is a "PA:4."

5 Q. Is that your handwriting?

6 A. Yes.

7 Q. Is anything else on that page your handwriting?

8 A. No, there is not.

9 Q. Okay. What other pages on this document did you
10 find your handwriting?

11 A. 00344.

12 Q. That's at the top of the page again?

13 A. It is at the top of the page again, by
14 "Health-Drugs" it says "AOD: 2, 3, 4, 5," then it says
15 "6th grade only, 1.1, 1.3, 1.4," and it says "PA:4."

16 Q. Is there anything else on that page that's your
17 handwriting?

18 A. Yes, on Wednesday, the 8th grade is crossed out,
19 over that it says "Review homework, Group Activity: Here
20 comes the joint homework: Face the facts."

21 Q. Anything else on this page your handwriting?

22 A. No.

23 Q. Now, at the top of that page, the material you
24 read first, why did you add that?



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A200

Richard Wilcoxon

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1 A. Those are the forms indicators for health class.

2 Q. ' For the state?

3 A. Yes.

4 Q. When did you add that; do you know?

5 A. Probably at the beginning of 2003.

6 Q. Do you remember?

7 A. No, I don't. I'm giving you an estimate.

8 Q. Okay. And the prior page that we read where you
9 had similar writing, that was also added because of the
10 state standards?

11 A. Yes.

12 Q. Where else on this document has your handwriting?

13 A. There is no tag on this page.

14 Q. Is it after the ones you just --

15 A. Yes. It is further back. The page after C00355,
16 the very next page.

17 Q. 355?

18 A. 355.

19 MR. WILSON: I think it does have the Bates
20 number. It is just in a different location.

21 A. I'm sorry. It says "356." I'm sorry. It does
22 have it in a different location.

23 Q. Okay. Where on this page does your handwriting
24 appear?



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A201

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1 A. Again at the top it says "Health-Tobacco, TOB:
2 1, '2, 3, 4, INJ:1."

3 Q. Okay.

4 A. In addition, I circled the movies down there at
5 the bottom, on Thursday's date.

6 Q. The circle is your handwriting?

7 A. Yes, I circled the movies because I was getting
8 other films to replace those.

9 Q. But the rest of that was Mr. Rumford's
10 handwriting?

11 A. Correct.

12 Q. Within the circle?

13 A. Correct.

14 Q. All right. What else?

15 A. I marked it, but I don't see it now. That may be
16 it that I found in my quick review.

17 Q. Well, in quick review --

18 A. When I looked through it.

19 Q. Do you need more time to look further?

20 A. When I flipped page by page, those are the ones
21 that jumped out at me and I saw quickly.

22 Q. Why don't we take some time. I want you to go
23 through it again and make sure you have identified
24 everything that you think is your handwriting.



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A202

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1 MR. WILSON: Take your time.

2 Q. Take your time.

3 A. My writing is also on C00348.

4 Q. 348, okay.

5 A. Again, on Thursday it says "PI: EH 2, 3, 4, (8th
6 only 1.2.) Also by the quiz it says "IJ 10, IJ 2, IJH
7 2."

8 Q. That's on Friday?

9 A. Friday, yes.

10 Q. And nothing else on that page is your
11 handwriting?

12 A. That's correct.

13 Q. What does PI mean?

14 A. PI is performance indicator. It is part of the
15 state standards.

16 Q. At the bottom it says, is it IJ?

17 A. IJ.

18 Q. All right. Did you find anything else that's --

19 A. No, I did not.

20 Q. So those are the only markings you have been able
21 to find on this plan book that are your handwriting?

22 A. Yes.

23 Q. Did you ever tell anybody in a grievance process
24 that you didn't think you should have the burden of



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1 redoing lesson plans?

2 A. No, I did not.

3 Q. So that's another misstatement people are making
4 about you?

5 A. Yes.

6 Q. When was the last time you spoke to Rudy Norton
7 at DSEA?

8 A. I'm unsure. I don't recall.

9 Q. Was it within the last year?

10 A. Probably. I haven't talked to him in a long
11 time.

12 Q. When was the last time you spoke to anybody at
13 DSEA about this case?

14 A. I believe I sent an e-mail to Jeff Taschner to
15 let him know the conciliation did not work out. I think
16 that was the last thing I did.

17 Q. Was there ever an arbitration brought for any of
18 your allegations against the school district?

19 A. No, there was not.

20 Q. So DSEA declined to bring an arbitration on your
21 behalf?

22 A. Instead they put me in contact with Mr. Wilson to
23 represent me.

24 Q. My question is: Did they agree to put any of



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1 your claims against the school district into arbitration?

2 A. Initially they did and then they changed -- they
3 did not go forward with that.

4 (Wilcoxon Deposition Exhibit 10 was marked
5 for identification.)

6 Q. Have you read it?

7 A. Yes.

8 Q. Okay. Can you identify what it is?

9 A. I sent it when Mr. Rumford contacted me and said
10 Miss Freebery saw my log, she was very upset. I was home
11 sick and I sent her an e-mail.

12 Q. So this is Exhibit 10, and it is an e-mail from
13 you to Janay Freebery, Janay Jack at the time?

14 A. Yes.

15 Q. And it says "Sent: Monday, December 15, 2003 at
16 10:27 a.m."?

17 A. Correct.

18 Q. So how long was it after you spoke with Mr.
19 Rumford about him finding the legal pad was it that you
20 sent this e-mail?

21 A. Not very long.

22 Q. Well, how long is not very long?

23 A. I can't recall exact times. When I was called,
24 but I was called -- I was out sick that morning and I was



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1 Q. Correct?

2 A. I did not say that.

3 Q. You never said that?

4 MR. WILSON: Object to the form.

5 A. I did not say that.

6 Q. Anybody that said that is making it up?

7 A. Correct.

8 Q. So you wrote this e-mail to Janay. And I'm not
9 going to ask you to read it word for word. Looking at
10 the last sentence in the first paragraph, that says you
11 never showed it to anyone; is that correct?

12 A. That's correct.

13 Q. And you never did?

14 A. I never did.

15 Q. That was accurate?

16 A. That's correct.

17 Q. Going down to the second paragraph, middle of the
18 paragraph it says a teacher came to you and said that Ms.
19 Freebery had said that Frank will just have to deal with
20 Rich. He is just too hard to get along with. Who was
21 that teacher?

22 A. Linda Filer.

23 Q. And it says, "Or something along those lines."

24 So that's not an exact quote?



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1 A. Correct.

2 Q. It says, "They also advised me to start keeping a
3 log to CMA (cover my ass)." Who is the "they"?

4 A. Linda Filer.

5 Q. Linda Filer is a "they"?

6 A. As I said before, Tom Karpinski also was part of
7 that conversation.

8 Q. So was it referring to both --

9 A. It was actually referring to Linda. "They"
10 referring to the same person who told me this statement.
11 They were the ones who told me that statement.

12 Q. Wouldn't that be "she" as one person?

13 A. Maybe I mistyped it.

14 Q. So you are not referring to Mr. Karpinski in
15 that?

16 A. I was not.

17 Q. It was a cover my ass log, correct?

18 A. Correct.

19 Q. And that was for the reasons we have gone through
20 earlier in the deposition?

21 A. Correct.

22 Q. Then it says, "I was really hurt, angry and
23 concerned," so it is fair to say that you were angry?

24 A. When I heard that those statements were made,



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1 for identification.)

2 Q. Are you done reading it?

3 A. Yes.

4 Q. This is Exhibit 11. Do you recognize that?

5 A. Yes.

6 Q. What is it?

7 A. It is an e-mail I wrote to Mr. Norton and his
8 response to me.

9 Q. This is after you contacted Mr. Norton, who is
10 with DSEA, as a grievance representative, correct?

11 A. Correct.

12 Q. Going down to the bottom of the page.

13 A. Okay.

14 Q. Where it says "The 2nd letter"?

15 A. Mm-hmm.

16 Q. Can you read that into the record, please.

17 A. "The 2nd letter states that I have kept students
18 after school several times --

19 Q. Slow down.

20 A. I'm sorry. "The 2nd letter states that I have
21 kept students after school several times and forgot to
22 sign up for busses. Well this is stretching the truth.
23 I have forgotten to sign up before Janay causes the
24 busses in at 10:00 a.m. but I have always remembered in



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1 time to call in my extra numbers before my activities
2 started."

3 Q. So you do agree that on some occasions you forgot
4 to make the calls about the busses?

5 A. By 10:00 a.m. I forgot to sign up the numbers.

6 Q. Looking over at page 2 of this, see item 4 there?

7 A. Yes.

8 Q. You say, "And finally, is everything I say to you
9 strictly confidential? Because there is something I want
10 to talk to you about but I don't want anyone else at all
11 to know about yet." What was that?

12 A. I do not recall.

13 Q. You don't know what it was?

14 A. I don't recall.

15 Q., Well, you have no clue as to what you were
16 referring to in that statement?

17 A. This e-mail was January 23rd, 2004. I don't
18 recall what I was thinking at that time.

19 Q. You have no idea what you were referring to that
20 was so important that you didn't want anyone else to know
21 about it?

22 MR. WILSON: Object.

23 A. I can make guesses, but I don't recall.

24 Q. What is your best recollection?



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1 A. As I said, I don't recall. I would be guessing.

2 Q. What is your best guess?

3 A. My guess would probably be the tapes, would be my
4 best guess, looking back at this time.

5 Q. The tapes that you were starting in December?

6 A. Yes.

7 Q. But you don't have a recollection of that?

8 A. I don't know if that's what I was referring to.

9 Q. Did you ever tell Mr. Norton that, in fact, you
10 had made some comments to Ms. Freebery that might be
11 inappropriate?

12 A. No, I did not.

13 Q. Did you tell Mr. Norton about your trip to
14 Hawaii?

15 A. I might have. I do not recall.

16 Q. Tell me about your trip to Hawaii. When did you
17 start planning that?

18 A. Whenever I turned in my request for personal
19 days. I don't know what day that -- when that was.

20 Q. That's when you started planning it?

21 A. Yes. My parents called me. My aunt had a time
22 share and she was not going to be able to use.

23 Q. Go ahead.

24 A. And that's when I started planning it.



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1 Q. How long were you out there?

2 A. I believe it was five days.

3 Q. Did you take any sick time as part of the time
4 you were away?

5 A. Not as part of the time I was away. I got sick
6 when I came back.

7 Q. So you weren't in Hawaii during either of the two
8 sick days that you took?

9 A. That's correct.

10 Q. Were you en route back?

11 A. No.

12 Q. So you made a trip to Hawaii for a total of five
13 days?

14 A. That's correct.

15 Q. And how long does it take to make a flight to
16 Hawaii?

17 A. I have no idea.

18 Q. Do you know what day you left on?

19 A. I believe it was Saturday, or it was a Wednesday.
20 I don't remember where the weekend fell. I planned it
21 around a weekend, so I could take the weekend.

22 Q. And do you know what day you came back?

23 A. Again, it would either be a Sunday or a
24 Wednesday.



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1 Is that correct? I planned around the
2 weekend. I was either leaving on the weekend or I was
3 coming back on the Sunday of that weekend.

4 Q. Let's mark this as the next document.

5 (Wilcoxon Deposition Exhibit 12 was marked
6 for identification.)

7 Q. Have you looked at the document?

8 A. Yes.

9 Q. This is Exhibit 12?

10 A. Mm-hmm.

11 Q. I'm going to represent to you the second page is
12 a printout of the times you were out and the call-in that
13 you made to SDS concerning the need for a substitute, and
14 the first page we put together recording that information
15 on a calendar.

16 A. Okay.

17 Q. Okay. So this SDS information shows you called
18 out for three personal days on Tuesday, January 13th.
19 Are you saying that's when you decided --

20 A. No, I didn't call out. I turned in the letter --
21 to take personal days you have to get approval from the
22 district. And whenever I turned in that document to get
23 approval from the district is when I started planning.
24 It was not the day before. It is when I turned in that



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A212

Richard Wilcoxon

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1 letter.

2 Q. Why did you wait until the day before to call SDS
3 about substitute?

4 A. Because it wasn't approved until the day before,
5 is when I received the letter back saying my personal
6 days had been approved for those following days.

7 Q. Have you produced that letter?

8 A. I don't have that letter.

9 Q. When was the last time you saw it?

10 A. Probably when I received it.

11 Q. When was it, to your recollection, the date or
12 the month when you started planning the trip to Hawaii?

13 A. My guess would be December. It wasn't very long
14 before we left.

15 Q. December of 2000 --

16 A. '03.

17 Q. Who else was with you on the trip to Hawaii?

18 A. My parents and my uncle.

19 Q. How long did they stay?

20 A. They stayed for another couple weeks. They were
21 gone for a total of two weeks.

22 Q. Do you have any of your records with your airline
23 receipts, things like that?

24 A. No.



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A213

Richard Wilcoxon

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1 Q. What agency did you use to schedule your airfare,
2 et cetera?

3 A. I couldn't tell you. I honestly don't know.

4 Q. What airline did you fly?

5 A. I'm making a guess it is USAir, but I don't know
6 for sure.

7 Q. You don't remember which airline you flew?

8 A. No.

9 Q. You think it might have been USAir?

10 A. It could possibly be USAir. I don't know.

11 Q. Could it be somebody else?

12 A. It could be.

13 Q. So you don't have any of the documentation
14 concerning your trip to Hawaii?

15 MR. WILSON: Object to form.

16 A. No, I do not.

17 Q. No receipts?

18 MR. WILSON: Object.

19 A. No.

20 Q. Credit card bills?

21 MR. WILSON: Object to form.

22 Q. Anything?

23 A. No.

24 Q. What caused you to get sick when you came back on



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Richard Wilcoxon

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1

2 BY MR. WILLOUGHBY:

3 Q. Did you discuss your testimony with your attorney
4 over the lunch break?

5 A. No, I did not.

6 Q. We have marked Exhibit 13 and given that to you.
7 Have you seen that before?

8 A. Yes.

9 Q. Let me ask you to look at the last page, Bates
10 number 0413.

11 A. Okay.

12 Q. Under recommendations, can you read what is
13 listed as a recommendation?

14 A. "Make certain your plans are detailed and well
15 developed. One or two-word entries in your plan book is
16 unacceptable."

17 Q. So that's a reference to your lesson plans when
18 you were at Lake Forest?

19 A. That's correct.

20 Q. Did you during the course of the time you were
21 employed at Skyline ever ask Ms. Freebery to go to the
22 Big Kahuna with you?

23 A. Yes, I did.

24 Q. Tell me about that.



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A215

Richard Wilcoxon

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1 A. Myself and another teacher were trying to get a
2 group of teachers to go together to see a band who was
3 playing.

4 Q. When was that?

5 A. I don't remember.

6 Q. Did you ever ask her to go to any other social
7 function with you?

8 A. I don't think so, but I may have.

9 Q. Did you ever ask her to do anything just the two
10 of you?

11 A. I don't think so.

12 Q. You might have?

13 A. I don't recall ever asking her.

14 Q. You don't remember?

15 A. Right.

16 Q. Okay. We are going to listen to a tape that your
17 attorney produced of the meeting where you say that you
18 stopped the tape because it was running out.

19 A. That's correct.

20 (Tape playing.)

21 Q. We can stop it. So just at the point where Ms.
22 Freebery makes comments about you making comments about
23 her personal life and that sort of thing you decided to
24 shut the tape off; is that correct?



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1 A. I was afraid the tape was running out. Our time
2 of the meeting was almost over. I knew the tape was only
3 a half hour long, and I was turning it off --
4

5 Q. Is it correct you shut the tape off at the point
6 where she made the comments that you were making
7 inappropriate remarks to her about her personal life;
isn't that true?

8 A. It was right after, yes.

9 Q. And you are saying that's just coincidence that
10 you shut it off then?

11 A. That's correct.

12 Q. Now, after that you made a comment on the tape,
13 that's on the tape we have. When did you make that
14 comment?

15 A. After my class that day. We left. I had to go
16 teach my class. And after that class I made that
17 comment.

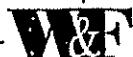
18 Q. Did you record over anything when you made that
19 comment?

20 A. I don't believe so.

21 Q. Is it possible you did?

22 A. I highly doubt it, but I'm not going to say it is
23 impossible. I just hit record again right after.

24 Q. Why don't you play the rest of the statement.



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1 that the obligations were untrue.

2 Q. Any other reasons?

3 A. I felt it didn't show my side of the story.

4 There was a number of reasons.

5 Q. What was your side of the story?

6 A. That those comments did not happen.

7 Q. That's the whole side of your story?

8 A. Yes, that it comes as retaliation for me keeping
9 a log. That she made the statements I made as
10 retaliation for me keeping a log.

11 Q. "She" being Ms. Freebery?

12 A. Yes, Miss Freebery.

13 Q. Looking at 17, which deals with the busses, do
14 you see that?.

15 A. Yes.

16 Q. You signed that one?

17 A. Yes.

18 Q. Does that mean you agree the comments are
19 accurate?

20 A. I agree they are somewhat accurate.

21 Also, I had asked for the meeting to stop so
22 I can get union representation, and Miss Basara did not
23 allow that to happen. She said not until you get the
24 last two letters. At that point I just wanted to talk to



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1 a union rep, so I wanted to move the meeting along.

2 Q. The first one you refused to sign?

3 A. That's correct.

4 Q. You said it was inaccurate. The second one you
5 signed apparently because you thought there was some
6 truth to the statement; is that correct?

7 A. There was some truth in that statement, yes.

8 (Wilcoxon Deposition Exhibit 18 was marked
9 for identification.)

10 Q. Have you read Exhibit 18?

11 A. Yes.

12 Q. Was that the third reprimand you received?

13 A. Yes.

14 Q. On the 22nd of January?

15 A. Yes.

16 Q. And this one deals with your substitute teacher
17 plans, correct?

18 A. Correct.

19 Q. And you signed that one as well?

20 A. Yes.

21 Q. So does that indicate that there was some
22 accuracy to these as well?

23 A. No. I also -- as I said for the last one, at
24 that point I wanted to talk to a union rep, and wanted to



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1 A. Yes.

2 Q. But despite that feeling you signed both of the
3 next two?

4 A. That's correct, because I wanted to get to the
5 phone and talk to my union rep.

6 Q. Attached to that are these lesson plans that Ms.
7 Basara is referring to in the reprimand?

8 A. I believe so.

9 Q. Now, the second page, which is Bates number
10 00171, is that in your handwriting?

11 A. 171?

12 Q. C00171, the second page of Exhibit 18?

13 A. Yes.

14 Q. Is that in your handwriting?

15 A. Yes, it is.

16 Q. What does that say?

17 A. "Basketball shoot around - balls are in a cage in
18 supply closet."

19 Q. Is there a date on that?

20 A. Yes, Wednesday, 1/14.

21 Q. So that was the plan for Wednesday, 1/14?

22 A. Yes.

23 Q. "Basketball shoot around - balls are in the cage
24 in supply closet"?



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A220

Richard Wilcoxon

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1 A. Correct.

2 Q. Thursday, the 13th, what does it say?

3 A. "Repeat Wednesday."

4 Q. So for Thursday we are repeating what is above
5 it?

6 A. That's correct.

7 Q. What does Friday, the 14th --

8 A. Says 16th, it looks like.

9 Q. 16th?

10 A. "Scooter team handball - 3 on 3 - 1st team to
11 score stays on - make goals out of large cones - students
12 must pass the ball across half court, otherwise turnover
13 - can't score from own side - a goal is when the ball
14 hits the bleachers between the cones."

15 Q. Keep reading.

16 A. "If this is to hard or not going well, you can
17 shoot around instead."

18 Q. Okay. Read the rest of it.

19 A. That was it.

20 Q. That's it?

21 A. Yes.

22 Q. So these were your lesson plans for three full
23 days when you were out?

24 A. Correct.



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A221

Richard Wilcoxon

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1 Q. Now, is there a learning objective listed on here
2 anywhere?

3 A. No, there is not.

4 Q. Is there any description of how you are going to
5 get to a learning objective from these plans?

6 A. No, there is not.

7 Q. Basically, this is how you play a couple of
8 games, right?

9 A. Correct.

10 Q. Okay. And are you saying that this is an
11 adequate lesson plan as far as you are concerned?

12 A. Not completely, no.

13 Q. And that is your handwriting on that?

14 A. That is correct.

15 Q. The next page, 00172, is that your handwriting?

16 A. Yes.

17 Q. And what is that?

18 A. It is a letter to the sub.

19 Q. And can you read what it says?

20 A. "Dear Sub, Thank you for your assistance. If any
21 of the kids give you any problems, please leave a note
22 about them. I am leaving you both TOR slips (to get a
23 student out of the room if they are a problem) and SBR
24 forms (if behavior is so bad you feel an administrator



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A222

Richard Wilcoxon

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1 A. That's correct.

2 Q. And when was it that the team teaching between
3 yourself and Ms. Freebery stopped?

4 A. This was the first semester.

5 Q. The spring of 2004?

6 A. That's correct.

7 Q. And did it stop in January or did it stop sooner
8 than that?

9 A. When the semester started, I guess it would be
10 January or whatever.

11 Q. Was there any time during January where you team
12 taught?

13 A. I do not think so.

14 Q. So for the whole spring semester you were on your
15 own?

16 A. That's correct.

17 Q. And you were using the lesson plans for health
18 that Mr. Rumford gave you?

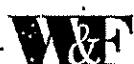
19 A. That's correct.

20 Q. What lesson plans were you using for the physical
21 education part of it?

22 A. The plans I wrote.

23 Q. Where are those plans?

24 A. They were on my school computer.



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1 Q. And C00243?

2 A. That's correct.

3 Q. How many times did she ask you for the lesson
4 plans before you sent this in?

5 A. Once.

6 Q. Well, the lesson plan was, the observation was on
7 April 21, and you gave this to her looks like
8 approximately two weeks later. What was the reason for
9 the delay?

10 A. As I said, she didn't ask for one that day.

11 Q. When did she ask for them?

12 A. Like I said, I guess approximately a week later.
13 I do not remember the exact date.

14 Q. Well, why did it take a week to get back to her
15 when she asked for the lesson plans?

16 A. Again, I don't remember the exact date when she
17 asked for them, so I don't know if it was a week. I'm
18 giving you guesses. I'm sorry.

19 Q. So you don't remember when she asked you for it?

20 A. No, I don't.

21 Q. Okay. Now, when a principal does an observation
22 of the teacher, is there a post-observation conference?

23 A. Yes, there is.

24 Q. What happens in the post-observation conference?



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1 Q. What does the next line say?

2 A. "On May 5th, 2004, I asked to see it for a second
3 time. You copied four pages and put it in my mailbox on
4 May 6, 2004. To this date, I have not seen your lesson
5 plan book."

6 Q. Is that accurate?

7 A. I had talked to her ahead of time and said, "Do
8 you want the book or do you want copies of the page for
9 health?" And she said, "Copies would be fine."

10 Q. So what you gave her in response to her request
11 on May 5th was what has previously been marked as
12 Exhibit 26?

13 A. That's correct.

14 Q. All right. And what does the next paragraph say?

15 A. "My concern is that the pages that you gave me
16 were lessons that Frank Rumford wrote more than two years
17 ago."

18 Q. Stop there. Is it accurate that the pages that
19 you had given her were lesson plans Mr. Rumford had
20 written two years ago?

21 A. Correct.

22 Q. Okay.

23 A. "He shared these with you to guide and assist you
24 as a new teacher. You have only inserted the standards



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1 on some of his lessons. Is unacceptable" --

2 Q. Let me stop you one second. I'm sorry. You only
3 inserted the standards on some of the lessons. Is that
4 the writings on these documents we referred to earlier
5 that was in your handwriting?

6 A. The standards, yes.

7 Q. She is accurate, that's the only writing that's
8 on here?

9 A. No. I altered one of the assignments as well, we
10 talked about previously.

11 Q. Just the one?

12 A. Yes.

13 Q. Go ahead. She says, "It is unacceptable"?

14 A. "It is unacceptable that after two years of
15 teaching health and physical education at Skyline, you
16 have not developed, adapted, adjusted, or improved upon
17 lessons handed to you as a guide."

18 Q. Do you agree with that remark?

19 A. No, I don't.

20 Q. So you think it was just fine for you to keep
21 using Mr. Rumford's two-year-old lesson plans?

22 A. For health we were team teaching. I was told
23 those were the lesson plans. I talked to people I had
24 seen teaching with, those were the lesson plans they



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1 mailbox, to meet me that day.

2 Q. She gave it to you in advance, even though the
3 normal process is to give it to you at the conference?

4 A. That's correct.

5 Q. And then you read it over and asked for a
6 postponement of the meeting so you could talk to your
7 union representative?

8 A. Yes.

9 Q. And she agreed to that?

10 A. Yes.

11 Q. And then you had the meeting later that week?

12 A. Yes.

13 (Wilcoxon Deposition Exhibit 29 was marked
14 for identification.)

15 Q. Do you recognize Exhibit 29?

16 A. Yes.

17 Q. What does this deal with?

18 A. It is a letter, I was written up for not securing
19 a student's Hoops for Hearts money.

20 Q. Hoops for Hearts?

21 A. It is a fundraiser. Yes.

22 Q. What is Hoops For Hearts?

23 A. It is a fundraiser for the American Heart
24 Association.



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1 Q. And students bring in cash or checks as a
2 contribution?

3 A. That's correct.

4 Q. And you were responsible for collecting the cash
5 and checks?

6 A. That's correct.

7 Q. And what happens with the cash?

8 A. I collected the envelopes. And I went up to the
9 cafeteria to get my lunch. After the class, I returned,
10 the envelope was torn open. One of the envelopes, just
11 one of them was torn open and the cash was missing.

12 Q. Where had you left the envelope?

13 A. On the front table in the multi-purpose room.

14 Q. On the front table in the multi-purpose room?

15 A. That's correct.

16 Q. And why didn't you secure the cash, take it to
17 your office and lock the door or do something else?

18 A. Honestly, I had been taking it back to my class,
19 back to my office in between each class, and at that time
20 I had forgotten about it.

21 Q. So this memo is accurate, that the money that was
22 under your control was stolen?

23 A. Yes.

24 Q. Looking at the second full paragraph, can you



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1 read that into the record, again, slowly, the first
2 sentence.

3 A. "Twice this school year I have reminded staff of
4 the importance of securing personal items and cash
5 collected from students."

6 Q. Is that accurate?

7 A. I do not recall. I do not recall. It could be.

8 Q. Could be, okay. Go ahead. First?

9 A. "First, we had a serious incident where a person
10 broke into our building and I held an emergency meeting
11 to notify staff and reminded everyone to lock their
12 valuables at all times."

13 Q. Is that accurate?

14 A. Yes, it is.

15 Q. What is next?

16 A. "Second, at our March faculty meeting, I reminded
17 staff to lock all money associated with SSA Power Card
18 fundraiser in their rooms until it could be brought to
19 the office and looked in the school safe."

20 Q. Is that accurate?

21 A. I do not recall.

22 Q. So it could be accurate? You just don't
23 remember?

24 A. That's correct.



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1 Q. And so that was another written reprimand you
2 received in the second semester of the 2003-2004 school
3 year?

4 A. That's correct.

5 Q. Now, again, at that point when you left the cash
6 unattended in the multi-purpose room, you knew your job
7 was in jeopardy and you believed it to be in jeopardy?

8 A. Correct.

9 Q. But you left it there anyway?

10 A. Correct.

11 (Wilcoxon Deposition Exhibit 30 was marked
12 for identification.)

13 Q. Do you recognize Exhibit 30?

14 A. Yes.

15 Q. Is this a typed version of the log that you had
16 been keeping?

17 A. Yes. This is what I referred to previously.

18 Q. This is the one that was on your --

19 A. Home computer.

20 Q. -- home computer?

21 A. That's correct.

22 Q. And this stops at February 23rd?

23 A. Correct.

24 Q. Correct?



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1 A. Yes, it is.

2 Q. Do you agree with Mr. Orga's statement that the
3 educational system is an area of accountability?

4 A. Yes, I do.

5 Q. Do you agree all educators are being asked to
6 reach higher standards?

7 A. Yes, I do.

8 Q. And that's something that's happened not only in
9 Delaware but really across the country?

10 A. Yes.

11 Q. That includes observations that are both
12 announced and unannounced?

13 A. Yes.

14 Q. Is there any specific thing, way in which you
15 believe Ms. Basara had violated DPAS guidelines for
16 observations?

17 A. I do not know the DPAS guidelines here.

18 Q. Do you know of any way that she violated the
19 collective bargaining agreement by doing unannounced
20 observation?

21 A. No, she did not.

22 (Wilcoxon Deposition Exhibit 34 was marked
23 for identification.)

24 Q. Do you recognize Exhibit 34?



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1 A. Yes, I do.

2 Q. And what is it?

3 A. It is the letter saying my contract would not be
4 renewed.

5 Q. And it is dated May 14, 2004?

6 A. That's correct.

7 Q. Did you request a meeting with the superintendent
8 concerning the reasons for your nonrenewal?

9 A. Yes, I did. I requested a letter.

10 Q. A letter.

11 A. And then the next step was a meeting.

12 (Wilcoxon Deposition Exhibit 35 was marked
13 for identification.)

14 Q. Who did you send your letter to asking for your
15 reasons for nonrenewal?

16 A. The superintendent of the school district. I was
17 advised to by my union.

18 Q. They had a formal letter, didn't they, they gave
19 nontenured teachers to send in, the DSEA?

20 A. I do not have any recollection of that. I
21 believe that's where I got this information, but I don't
22 recall that's what it was.

23 Q. You don't know whether or not they have a form
24 letter that they use for nonrenewals of nontenured



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1 A. I do not have recall directly what I said.

2 Q. Do you recall what any of the school district
3 representatives said?

4 A. No, I do not.

5 Q. So you don't recall what they said?

6 A. No, I do not.

7 (Wilcoxon Deposition Exhibit 36 was marked
8 for identification.)

9 Q. Do you recognize Exhibit 36?

10 A. Yes, I do.

11 Q. What is that?

12 A. It is the complaint I filed with the Department
13 of Labor.

14 Q. And what was the date that you filed this charge
15 with the Department of Labor?

16 A. It says down in the corner February 24th, '04.

17 Q. And is it correct that the district didn't
18 receive the charge until some time later?

19 A. Yes.

20 Q. And is that on or about March 12th?

21 A. It is in the middle of March.

22 Q. Do you have any independent knowledge of when
23 they received it?

24 A. No, I do not.



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1 Q. And you claim in this charge that you are the
2 victim of gender bias, being male?

3 A. Yes.

4 Q. Let me go to the page marked C00775. Do you see
5 that? The top of the page --

6 A. Yes.

7 Q. -- "Remedy Information," item number 7?

8 A. Yes.

9 Q. You write, "I want to keep my job"?

10 A. Yes.

11 Q. So at that point you already believed that you
12 would not be renewed?

13 A. That's correct.

14 Q. And that was based on the comments that Ms.
15 Freebery made about you making inappropriate
16 sexually-related remarks to her?

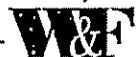
17 A. That's correct.

18 Q. Let's look at page C00777. Do you see item
19 number 4?

20 A. Yes, I do.

21 Q. So you are saying in there that, in fact, it was
22 Ms. Freebery who brought up the sexually-related comments
23 to you?

24 A. Yes.



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1 for identification.)

2 BY, MR. WILLOUGHBY:

3 Q. Do you recognize Exhibit 37?

4 A. Yes, I do.

5 Q. And that's dated June 9th, 2004?

6 A. That's correct.

7 Q. And this is the charge of retaliation you filed
8 with the Department of Labor, the EEOC?

9 A. That's correct.

10 Q. It says that you filed a charge on February 24th,
11 and the respondent received the charge on March 12th,
12 correct?

13 A. Yes.

14 Q. How do you know that date?

15 A. There was a letter that was sent to me that said
16 they mailed it out to the respondents. I don't know if
17 they received it on March 12th or sent it out. I don't
18 know where that date came from exactly.

19 Q. Isn't it fair to say that the negative treatment
20 that you received began, you claim you received began
21 after the log you were keeping on Ms. Freebery came out?

22 A. It got worse.

23 Q. So it is true that once that came out, in your
24 mind, you were being threatened with termination and



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1 termination, no.

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2 Q. Do you agree it occurred sometimes?

3 A. I'm sure there is times.

4 Q. Do you believe there was inappropriate
5 interaction with staff?

6 A. No, I do not.

7 Q. At no time?

8 A. No.

9 Q. What about lack of proper student lesson plans,
10 do you agree there were times when that was accurate?

11 A. There may be times.

12 (Wilcoxon Deposition Exhibit 42 was marked
13 for identification.)

14 Q. Do you recognize Exhibit 42?

15 A. Yes, I do.

16 Q. And what is that?

17 A. I believe it is a document Mr. Norton typed up,
18 I'm not sure, about the grievance hearing.

19 Q. Would you agree that the association position,
20 that first entry after the hearing date and who is
21 present, that accurately summarizes the association's
22 position?

23 A. Yes.

24 Q. And do you agree that the administrative response



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Richard Wilcoxon

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1 MR. WILSON: Okay.

2 MR. WILLOUGHBY: For today.

3 (Recess taken.)

4 MR. WILLOUGHBY: That's all I have for
5 today. We have agreed we are going to come back, if
6 necessary, after the review of the tapes.

7 MR. WILSON: Okay.

8 MR. WILLOUGHBY: Do you have questions?

9 MR. WILSON: I have very briefly a few
10 questions.

11 EXAMINATION

12 BY MR. WILSON:

13 Q. Mr. Wilcoxon, early in the deposition Mr.
14 Willoughby asked you when you were testifying about the
15 taping of the meetings and the journal if you thought
16 that was disloyal and you said something to the extent of
17 it might be disloyal. Did you feel you owed loyalty to
18 Janet Basara?

19 A. No.

20 Q. Did you feel you owed loyalty to Miss Freebery?

21 A. No.

22 Q. Did you feel you owed loyalty to Mr. Rumford?

23 A. No.

24 Q. Who did you feel you owed loyalty to?



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